



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5204

by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

225 ILCS 407/10-1	
625 ILCS 5/3-118	from Ch. 95 1/2, par. 3-118
625 ILCS 5/5-401.2	from Ch. 95 1/2, par. 5-401.2
625 ILCS 5/5-403	from Ch. 95 1/2, par. 5-403
625 ILCS 5/5-702	from Ch. 95 1/2, par. 5-702
625 ILCS 5/1-154.7 rep.	
625 ILCS 5/5-302 rep.	

Amends the Illinois Vehicle Code. Repeals provisions providing that no person may sell or offer at auction a salvage vehicle to any person who has not been issued an out-of-state salvage vehicle buyer's ID card from the Secretary of State, based on the person's status as a licensed auto dealer in another state. Makes corresponding changes in the Code and in the Auction License Act.

LRB095 14708 DRH 40629 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Auction License Act is amended by changing
5 Section 10-1 as follows:

6 (225 ILCS 407/10-1)

7 Sec. 10-1. Necessity of license; exemptions.

8 (a) It is unlawful for any person, corporation, limited
9 liability company, partnership, or other entity to conduct an
10 auction, provide an auction service, hold himself or herself
11 out as an auctioneer, or advertise his or her services as an
12 auctioneer in the State of Illinois without a license issued by
13 the Department under this Act, except at:

14 (1) an auction conducted solely by or for a
15 not-for-profit organization for charitable purposes;

16 (2) an auction conducted by the owner of the property,
17 real or personal;

18 (3) an auction for the sale or lease of real property
19 conducted by a licensee under the Real Estate License Act,
20 or its successor Acts, in accordance with the terms of that
21 Act;

22 (4) an auction conducted by a business registered as a
23 market agency under the federal Packers and Stockyards Act

1 (7 U.S.C. 181 et seq.) or under the Livestock Auction
2 Market Law;

3 (5) an auction conducted by an agent, officer, or
4 employee of a federal agency in the conduct of his or her
5 official duties; and

6 (6) an auction conducted by an agent, officer, or
7 employee of the State government or any political
8 subdivision thereof performing his or her official duties.

9 (b) Nothing in this Act shall be construed to apply to a
10 new or used vehicle dealer or a vehicle auctioneer licensed by
11 the Secretary of State of Illinois, or to any employee of the
12 licensee, who is a resident of the State of Illinois, while the
13 employee is acting in the regular scope of his or her
14 employment for the licensee while conducting an auction that is
15 not open to the public, provided that only new or used vehicle
16 dealers, rebuilders, automotive parts recyclers, or scrap
17 processors, ~~or out of state salvage vehicle buyers~~ licensed by
18 the Secretary of State or licensed by another jurisdiction or
19 out-of-state salvage vehicle buyers may buy property at the
20 auction, or to sales by or through the licensee.

21 (c) Nothing in this Act shall be construed to prohibit a
22 person under the age of 18 from selling property under \$250 in
23 value while under the direct supervision of a licensed
24 auctioneer.

25 (d) Nothing in this Act, except Section 10-27, shall be
26 construed to apply to a person while providing an Internet

1 auction listing service as defined in Section 10-27.

2 (Source: P.A. 95-572, eff. 6-1-08.)

3 Section 10. The Illinois Vehicle Code is amended by
4 changing Sections 3-118, 5-401.2, 5-403, and 5-702 as follows:

5 (625 ILCS 5/3-118) (from Ch. 95 1/2, par. 3-118)

6 Sec. 3-118. Application for salvage or junking
7 certificate; contents.

8 (a) An application for a salvage certificate or junking
9 certificate shall be made upon the forms prescribed by the
10 Secretary of State and contain:

11 1. The name and address of the owner;

12 2. A description of the vehicle including, so far as
13 the following data exists: its make, year-model,
14 identifying number, type of body, whether new or used;

15 3. The date of purchase by applicant; and

16 4. Any further information reasonably required by the
17 Secretary of State.

18 (b) The application for salvage certificate must also
19 contain the current odometer reading and that the stated
20 odometer reading is one of the following: actual mileage, not
21 the actual mileage or mileage is in excess of its mechanical
22 limits.

23 (c) A salvage certificate may be assigned to any person
24 licensed under this Act as a rebuilder, automotive parts

1 recycler, or scrap processor, or to an out-of-state salvage
2 vehicle buyer. A salvage certificate for a vehicle that has
3 come from a police impoundment may be assigned to a municipal
4 fire department. A junking certificate may be assigned to
5 anyone. The provisions for reassignment by dealers under
6 paragraph (a) of Section 3-113 shall apply to salvage
7 certificates, except as provided in Section 3-117.2. A salvage
8 certificate may be reassigned to one other person licensed
9 under this Act.

10 (Source: P.A. 95-301, eff. 1-1-08.)

11 (625 ILCS 5/5-401.2) (from Ch. 95 1/2, par. 5-401.2)

12 Sec. 5-401.2. Licensees required to keep records and make
13 inspections.

14 (a) Every person licensed or required to be licensed under
15 Section 5-101, 5-101.1, 5-102, or 5-301 ~~or 5-302~~ of this Code,
16 shall, with the exception of scrap processors, maintain for 3
17 years, in a form as the Secretary of State may by rule or
18 regulation prescribe, at his established place of business or ~~7~~
19 additional place of business, ~~or principal place of business if~~
20 ~~licensed under Section 5-302~~, the following records relating to
21 the acquisition or disposition of vehicles and their essential
22 parts possessed in this State, brought into this State from
23 another state, territory or country, or sold or transferred to
24 another person in this State or in another state, territory, or
25 country.

1 (1) The following records pertaining to new or used
2 vehicles shall be kept:

3 (A) the year, make, model, style and color of the
4 vehicle;

5 (B) the vehicle's manufacturer's identification
6 number or, if applicable, the Secretary of State or
7 Illinois Department of State Police identification
8 number;

9 (C) the date of acquisition of the vehicle;

10 (D) the name and address of the person from whom
11 the vehicle was acquired and, if that person is a
12 dealer, the Illinois or out-of-state dealer license
13 number of such person;

14 (E) the signature of the person making the
15 inspection of a used vehicle as required under
16 subsection (d) of this Section, if applicable;

17 (F) the purchase price of the vehicle, if
18 applicable;

19 (G) the date of the disposition of the vehicle;

20 (H) the name and address of the person to whom any
21 vehicle was disposed, and if that person is a dealer,
22 the Illinois or out-of-State dealer's license number
23 of that dealer;

24 (I) the uniform invoice number reflecting the
25 disposition of the vehicle, if applicable; and

26 (J) The sale price of the vehicle, if applicable.

1 (2) (A) The following records pertaining to used
2 essential parts other than quarter panels and
3 transmissions of vehicles of the first division shall be
4 kept:

5 (i) the year, make, model, color and type of such
6 part;

7 (ii) the vehicle's manufacturer's identification
8 number, derivative number, or, if applicable, the
9 Secretary of State or Illinois Department of State
10 Police identification number of such part;

11 (iii) the date of the acquisition of each part;

12 (iv) the name and address of the person from whom
13 the part was acquired and, if that person is a dealer,
14 the Illinois or out-of-state dealer license number of
15 such person; if the essential part being acquired is
16 from a person other than a dealer, the licensee shall
17 verify and record that person's identity by recording
18 the identification numbers from at least two sources of
19 identification, one of which shall be a drivers license
20 or State identification card;

21 (v) the uniform invoice number or out-of-state
22 bill of sale number reflecting the acquisition of such
23 part;

24 (vi) the stock number assigned to the essential
25 part by the licensee, if applicable;

26 (vii) the date of the disposition of such part;

1 (viii) the name and address of the person to whom
2 such part was disposed of and, if that person is a
3 dealer, the Illinois or out-of-state dealer license
4 number of that person;

5 (ix) the uniform invoice number reflecting the
6 disposition of such part.

7 (B) Inspections of all essential parts shall be
8 conducted in accordance with Section 5-402.1.

9 (C) A separate entry containing all of the information
10 required to be recorded in subparagraph (A) of paragraph
11 (2) of subsection (a) of this Section shall be made for
12 each separate essential part. Separate entries shall be
13 made regardless of whether the part was a large purchase
14 acquisition. In addition, a separate entry shall be made
15 for each part acquired for immediate sale or transfer, or
16 for placement into the overall inventory or stock to be
17 disposed of at a later time, or for use on a vehicle to be
18 materially altered by the licensee, or acquired for any
19 other purpose or reason. Failure to make a separate entry
20 for each essential part acquired or disposed of, or a
21 failure to record any of the specific information required
22 to be recorded concerning the acquisition or disposition of
23 each essential part as set forth in subparagraph (A) of
24 paragraph (2) of subsection (a) shall constitute a failure
25 to keep records.

26 (D) The vehicle's manufacturer's identification number

1 or Secretary of State or Illinois Department of State
2 Police identification number for the essential part shall
3 be ascertained and recorded even if such part is acquired
4 from a person or dealer located in a State, territory, or
5 country which does not require that such information be
6 recorded. If the vehicle's manufacturer's identification
7 number or Secretary of State or Illinois Department of
8 State Police identification number for an essential part
9 cannot be obtained, that part shall not be acquired by the
10 licensee or any of his agents or employees. If such part or
11 parts were physically acquired by the licensee or any of
12 his agents or employees while the licensee or agent or
13 employee was outside this State, that licensee or agent or
14 employee was outside the State, that licensee, agent or
15 employee shall not bring such essential part into this
16 State or cause it to be brought into this State. The
17 acquisition or disposition of an essential part by a
18 licensee without the recording of the vehicle
19 identification number or Secretary of State identification
20 number for such part or the transportation into the State
21 by the licensee or his agent or employee of such part or
22 parts shall constitute a failure to keep records.

23 (E) The records of essential parts required to be kept
24 by this Section shall apply to all hulks, chassis, frames
25 or cowls, regardless of the age of those essential parts.
26 The records required to be kept by this Section for

1 essential parts other than hulks, chassis, frames or cowl,
2 shall apply only to those essential parts which are 6 model
3 years of age or newer. In determining the model year of
4 such an essential part it may be presumed that the
5 identification number of the vehicle from which the
6 essential part came or the identification number affixed to
7 the essential part itself acquired by the licensee denotes
8 the model year of that essential part. This presumption,
9 however, shall not apply if the gross appearance of the
10 essential part does not correspond to the year, make or
11 model of either the identification number of the vehicle
12 from which the essential part is alleged to have come or
13 the identification number which is affixed to the essential
14 part itself. To determine whether an essential part is 6
15 years of age or newer within this paragraph, the model year
16 of the essential part shall be subtracted from the calendar
17 year in which the essential part is acquired or disposed of
18 by the licensee. If the remainder is 6 or less, the record
19 of the acquisition or disposition of that essential part
20 shall be kept as required by this Section.

21 (F) The requirements of paragraph (2) of subsection (a)
22 of this Section shall not apply to the disposition of an
23 essential part other than a cowl which has been damaged or
24 altered to a state in which it can no longer be returned to
25 a usable condition and which is being sold or transferred
26 to a scrap processor or for delivery to a scrap processor.

1 (3) the following records for vehicles on which junking
2 certificates are obtained shall be kept:

3 (A) the year, make, model, style and color of the
4 vehicle;

5 (B) the vehicle's manufacturer's identification number
6 or, if applicable, the Secretary of State or Illinois
7 Department of State Police identification number;

8 (C) the date the vehicle was acquired;

9 (D) the name and address of the person from whom the
10 vehicle was acquired and, if that person is a dealer, the
11 Illinois or out-of-state dealer license number of that
12 person;

13 (E) the certificate of title number or salvage
14 certificate number for the vehicle, if applicable;

15 (F) the junking certificate number obtained by the
16 licensee; this entry shall be recorded at the close of
17 business of the fifth business day after receiving the
18 junking certificate;

19 (G) the name and address of the person to whom the
20 junking certificate has been assigned, if applicable, and
21 if that person is a dealer, the Illinois or out-of-state
22 dealer license number of that dealer;

23 (H) if the vehicle or any part of the vehicle is
24 dismantled for its parts to be disposed of in any way, or
25 if such parts are to be used by the licensee to materially
26 alter a vehicle, those essential parts shall be recorded

1 and the entries required by paragraph (2) of subsection (a)
2 shall be made.

3 (4) The following records for rebuilt vehicles shall be
4 kept:

5 (A) the year, make, model, style and color of the
6 vehicle;

7 (B) the vehicle's manufacturer's identification number
8 of the vehicle or, if applicable, the Secretary of State or
9 Illinois Department of State Police identification number;

10 (C) the date the vehicle was acquired;

11 (D) the name and address of the person from whom the
12 vehicle was acquired, and if that person is a dealer, the
13 Illinois or out-of-state dealer license number of that
14 person;

15 (E) the salvage certificate number for the vehicle;

16 (F) the newly issued certificate of title number for
17 the vehicle;

18 (G) the date of disposition of the vehicle;

19 (H) the name and address of the person to whom the
20 vehicle was disposed, and if a dealer, the Illinois or
21 out-of-state dealer license number of that dealer;

22 (I) The sale price of the vehicle.

23 (a-1) A person licensed or required to be licensed under
24 Section 5-101 or Section 5-102 of this Code who issues
25 temporary registration permits as permitted by this Code and by
26 rule must electronically file the registration with the

1 Secretary and must maintain records of the registration in the
2 manner prescribed by the Secretary.

3 (b) A failure to make separate entries for each vehicle
4 acquired, disposed of, or assigned, or a failure to record any
5 of the specific information required to be recorded concerning
6 the acquisition or disposition of each vehicle as set forth in
7 paragraphs (1), (3) and (4) of subsection (a) shall constitute
8 a failure to keep records.

9 (c) All entries relating to the acquisition of a vehicle or
10 essential part required by subsection (a) of this Section shall
11 be recorded no later than the close of business on the seventh
12 calendar day following such acquisition. All entries relating
13 to the disposition of a vehicle or an essential part shall be
14 made at the time of such disposition. If the vehicle or
15 essential part was disposed of on the same day as its
16 acquisition or the day thereafter, the entries relating to the
17 acquisition of the vehicle or essential part shall be made at
18 the time of the disposition of the vehicle or essential part.
19 Failure to make the entries required in or at the times
20 prescribed by this subsection following the acquisition or
21 disposition of such vehicle or essential part shall constitute
22 a failure to keep records.

23 (d) Every person licensed or required to be licensed shall,
24 before accepting delivery of a used vehicle, inspect the
25 vehicle to determine whether the manufacturer's public vehicle
26 identification number has been defaced, destroyed, falsified,

1 removed, altered, or tampered with in any way. If the person
2 making the inspection determines that the manufacturer's
3 public vehicle identification number has been altered,
4 removed, defaced, destroyed, falsified or tampered with he
5 shall not acquire that vehicle but instead shall promptly
6 notify law enforcement authorities of his finding.

7 (e) The information required to be kept in subsection (a)
8 of this Section shall be kept in a manner prescribed by rule or
9 regulation of the Secretary of State.

10 (f) Every person licensed or required to be licensed shall
11 have in his possession a separate certificate of title, salvage
12 certificate, junking certificate, certificate of purchase,
13 uniform invoice, out-of-state bill of sale or other acceptable
14 documentary evidence of his right to the possession of every
15 vehicle or essential part.

16 (g) Every person licensed or required to be licensed as a
17 transporter under Section 5-201 shall maintain for 3 years, in
18 such form as the Secretary of State may by rule or regulation
19 prescribe, at his principal place of business a record of every
20 vehicle transported by him, including numbers of or other marks
21 of identification thereof, the names and addresses of persons
22 from whom and to whom the vehicle was delivered and the dates
23 of delivery.

24 (h) No later than 15 days prior to going out of business,
25 selling the business, or transferring the ownership of the
26 business, the licensee shall notify the Secretary of State that

1 he is going out of business or that he is transferring the
2 ownership of the business. Failure to notify under this
3 paragraph shall constitute a failure to keep records.

4 (i) (Blank).

5 (j) A person who knowingly fails to comply with the
6 provisions of this Section or knowingly fails to obey, observe,
7 or comply with any order of the Secretary or any law
8 enforcement agency issued in accordance with this Section is
9 guilty of a Class B misdemeanor for the first violation and a
10 Class A misdemeanor for the second and subsequent violations.
11 Each violation constitutes a separate and distinct offense and
12 a separate count may be brought in the same indictment or
13 information for each vehicle or each essential part of a
14 vehicle for which a record was not kept as required by this
15 Section.

16 (k) Any person convicted of failing to keep the records
17 required by this Section with intent to conceal the identity or
18 origin of a vehicle or its essential parts or with intent to
19 defraud the public in the transfer or sale of vehicles or their
20 essential parts is guilty of a Class 2 felony. Each violation
21 constitutes a separate and distinct offense and a separate
22 count may be brought in the same indictment or information for
23 each vehicle or essential part of a vehicle for which a record
24 was not kept as required by this Section.

25 (l) A person may not be criminally charged with or
26 convicted of both a knowing failure to comply with this Section

1 and a knowing failure to comply with any order, if both
2 offenses involve the same record keeping violation.

3 (m) The Secretary shall adopt rules necessary for
4 implementation of this Section, which may include the
5 imposition of administrative fines.

6 (Source: P.A. 91-415, eff. 1-1-00; 92-773, eff. 8-6-02.)

7 (625 ILCS 5/5-403) (from Ch. 95 1/2, par. 5-403)

8 Sec. 5-403. (1) Authorized representatives of the
9 Secretary of State including officers of the Secretary of
10 State's Department of Police, other peace officers, and such
11 other individuals as the Secretary may designate from time to
12 time shall make inspections of individuals and facilities
13 licensed or required to be licensed under Chapter 5 of the
14 Illinois Vehicle Code for the purpose of reviewing records
15 required to be maintained under Chapter 5 for accuracy and
16 completeness and reviewing and examining the premises of the
17 licensee's established or additional place of business for the
18 purpose of determining the accuracy of the required records.
19 Premises that may be inspected in order to determine the
20 accuracy of the books and records required to be kept includes
21 all premises used by the licensee to store vehicles and parts
22 that are reflected by the required books and records.

23 (2) Persons having knowledge of or conducting inspections
24 pursuant to this Chapter shall not in advance of such
25 inspections knowingly notify a licensee or representative of a

1 licensee of the contemplated inspection unless the Secretary or
2 an individual designated by him for this purpose authorizes
3 such notification. Any individual who, without authorization,
4 knowingly violates this subparagraph shall be guilty of a Class
5 A misdemeanor.

6 (3) The licensee or a representative of the licensee shall
7 be entitled to be present during an inspection conducted
8 pursuant to Chapter 5, however, the presence of the licensee or
9 an authorized representative of the licensee is not a condition
10 precedent to such an inspection.

11 (4) Inspection conducted pursuant to Chapter 5 may be
12 initiated at any time that business is being conducted or work
13 is being performed, whether or not open to the public or when
14 the licensee or a representative of the licensee, other than a
15 mere custodian or watchman, is present. The fact that a
16 licensee or representative of the licensee leaves the licensed
17 premises after an inspection has been initiated shall not
18 require the termination of the inspection.

19 (5) Any inspection conducted pursuant to Chapter 5 shall
20 not continue for more than 24 hours after initiation.

21 (6) In the event information comes to the attention of the
22 individuals conducting an inspection that may give rise to the
23 necessity of obtaining a search warrant, and in the event steps
24 are initiated for the procurement of a search warrant, the
25 individuals conducting such inspection may take all necessary
26 steps to secure the premises under inspection until the warrant

1 application is acted upon by a judicial officer.

2 (7) No more than 6 inspections of a premises may be
3 conducted pursuant to Chapter 5 within any 6 month period
4 except pursuant to a search warrant. Notwithstanding this
5 limitation, nothing in this subparagraph (7) shall be construed
6 to limit the authority of law enforcement agents to respond to
7 public complaints of violations of the Code. For the purpose of
8 this subparagraph (7), a public complaint is one in which the
9 complainant identifies himself or herself and sets forth, in
10 writing, the specific basis for their complaint against the
11 licensee. For the purpose of this subparagraph (7), the
12 inspection of records pertaining only to scrap metals, as
13 provided in subdivision (a) (5) of Section 5-401.3 of this Code,
14 shall not be counted as an inspection of a premises.

15 (8) Nothing in this Section shall be construed to limit the
16 authority of individuals by the Secretary pursuant to this
17 Section to conduct searches of licensees pursuant to a duly
18 issued and authorized search warrant.

19 (9) Any licensee who, having been informed by a person
20 authorized to make inspections and examine records under this
21 Section that he desires to inspect records and the licensee's
22 premises as authorized by this Section, refuses either to
23 produce for that person records required to be kept by this
24 Chapter or to permit such authorized person to make an
25 inspection of the premises in accordance with this Section
26 shall subject the license to immediate suspension by the

1 Secretary of State.

2 (10) (Blank). ~~Beginning July 1, 1988, any person licensed~~
3 ~~under 5-302 shall produce for inspection upon demand those~~
4 ~~records pertaining to the acquisition of salvage vehicles in~~
5 ~~this State. This inspection may be conducted at the principal~~
6 ~~offices of the Secretary of State.~~

7 (Source: P.A. 95-253, eff. 1-1-08.)

8 (625 ILCS 5/5-702) (from Ch. 95 1/2, par. 5-702)

9 Sec. 5-702. No person shall engage in the business of
10 auctioning any vehicles for which a salvage certificate is
11 required by law except to a bidder who is an out-of-state
12 salvage vehicle buyer or who is properly licensed as a
13 rebuilder, automotive parts recycler, or scrap processor ~~or~~
14 ~~out-of-state salvage buyer~~, as required by Section ~~Sections~~
15 5-301 ~~and 5-302~~ of this Chapter.

16 (Source: P.A. 89-663, eff. 8-14-96.)

17 (625 ILCS 5/1-154.7 rep.)

18 (625 ILCS 5/5-302 rep.)

19 Section 15. The Illinois Vehicle Code is amended by
20 repealing Sections 1-154.7 and 5-302.